



FEDERAL ELECTION COMMISSION

WASHINGTON D C 20463

JUL 22 2004

Assad Y. Diabes
Diabes Brothers, Inc.
1000 Portside Drive
Edgewater, New Jersey 07020

RE: MUR 5453
Diabes Brothers, Inc.

Dear Mr. Diabes:

On May 18, 2004, the Federal Election Commission ("the Commission") found reason to believe that Diabes Brothers, Inc. violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file as it pertains to Diabes Brothers, Inc. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that the corporate contribution from Diabes Brothers, Inc. to the Giordano for U.S. Senate Committee on October 27, 2000 is a violation of 2 U.S.C. § 441b(a). You should take steps to ensure that this activity does not occur in the future.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Christine C. Gallagher, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Bradley A. Smith".

Bradley A. Smith
Chairman

Enclosure
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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6 RESPONDENT: Diabes Brothers, Inc.

MUR: 5453

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8 **I. GENERATION OF THE MATTER**

9 This matter was generated based on information ascertained by the Federal Election
10 Commission ("the Commission") in the normal course of carrying out its supervisory
11 responsibilities. *See* 2 U.S.C. § 437g(a)(2).¹

12 **II. ANALYSIS**

13 Philip Giordano was a candidate for the office of United States Senator from Connecticut
14 in the 2000 election. On October 27, 2000, Diabes Brothers, Inc. made what appears to be an
15 apparent prohibited corporate contribution to the Giordano for U.S. Senate Committee ("the
16 Committee") in the amount of \$1,000.00. The Committee received and deposited this
17 contribution.

18 Pursuant to 2 U.S.C. § 441b(a), it is unlawful for corporations to make a contribution in
19 connection with any election for Federal office, "or for any candidate, political committee, or
20 other person knowingly to accept or receive any contribution prohibited by this section." The
21 term "contribution" includes "any direct or indirect payment, distribution, loan, advance, deposit,
22 or gift of money, or any services or anything of value . . . to any candidate, campaign committee,
23 or political party or organization in connection with any" federal election. 2 U.S.C. § 441b(b)(2).

¹ All of the facts in this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended ("the Act"), herein are as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA.

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1 It does not appear from the Committee's disclosure reports that the Committee refunded
2 the aforesaid corporate contribution.

3 Therefore, there is reason to believe Diabes Brothers, Inc. violated 2 U.S.C.
4 § 441b(a).

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